



Michigan's Foreclosure Process

Common Myths (5-29-13)

1) **MYTH: The new Consumer Financial Protection Bureau (CFPB) rule prohibiting lenders from initiating the foreclosure process until a homeowner is at least 120 days delinquent lengthens Michigan's pre-foreclosure process.** This lengthening of the pre-foreclosure process (on the front-end) warrants shortening the post-sheriff's sale Redemption Period (on the back end).

REALITY: In most instances, the new rules will actually shorten Michigan's pre-foreclosure process. A 2013 survey of Michigan foreclosure prevention counselors and legal service attorneys working with homeowners across the state found that the practice of 86% of lenders/servicers has been to wait until a homeowner is 90 - 120 days delinquent to send them the letter informing them that under Michigan law they are entitled to a 90-day pre-foreclosure negotiation period beginning from the date of that letter. That means that in practice, in nearly 90% of the cases, for the past four years, Michigan's pre-foreclosure period has ranged from 180 – 210 days. The clock on the CFPB 120-day prohibition period starts ticking on the first day of delinquency. Assuming that lenders will initiate foreclosure on day 121 or soon thereafter, in reality, under the new rules, Michigan's pre-foreclosure period will be shortened from the 180-210 day past practice to 120 + days.

2) **MYTH: Banks are seeing increasing numbers of homeowners trashing homes during the Redemption Period, and claim that shortening it will solve the problem**

REALITY: There is no data to back up this claim. Common sense would tell us that someone pre-disposed to trash a home is no less likely to do so in 60 days than in 6 months. Additionally, anecdotal evidence indicates that *vacant, rather than occupied* properties are most often damaged during the Redemption Period. Regardless, Michigan's current law already holds the homeowner liable for any damage done during the Redemption Period. **A better policy solution might be to criminalize that vandalism rather than shorten the Redemption Period critical to the vast majority of homeowners who are not vandals.**

3) **MYTH: Most homeowners are not taking advantage of the 6-month Redemption Period but are instead abandoning the property, yet the lender is still required to wait 6 months to initiate the foreclosure process.**

REALITY: If a property is abandoned, Michigan law allows the lender to shorten the 6-month Redemption Period to 30 days.

4) **MYTH: Homeowners live in their homes "rent-free" during the foreclosure process and during the Redemption Period.**

REALITY: In Michigan, **debt owed on a mortgage follows the homeowner even after foreclosure.** Lenders are entitled to pursue homeowners' other assets to seek repayment for missed mortgage payments.

5) **MYTH: Michigan's has one of the longest *Foreclosure Time Frames* in the country.**

REALITY: Several years ago, Michigan made a trade-off when it decided to allow lenders to foreclose by advertisement rather than to require them to go through the court system (judicial foreclosure). Since foreclosure by advertisement is a much quicker process, the trade-off was that homeowners would have a reasonable 6-month Redemption Period in which to attempt to challenge a fraudulent or illegal foreclosure, redeem the house, sell it on a *short* sale (for less than what they owe on the mortgage) or find a new place to live. **Michigan's average foreclosure timeline is currently similar in length to the average foreclosure timeline nationally.** The reduction of the 6-month Redemption Period to 60 days would reduce Michigan's foreclosure timeline to 270 days, which would constitute the **shortest timeline in the Great Lakes region.**

6) **MYTH: Michigan has one of the longest *Redemption Periods* in the country.**

REALITY: Redemption Periods across the country range from 3 months to 3 years. Most states have either a 6-month or 12-month Redemption Period. **Michigan is currently right in the middle of the pack with a 6-month Redemption Period.**